

Message Text

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PAGE 01 USUN N 01745 261539Z

63

ACTION DLOS-04

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10

FEA-01 ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00

CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01

ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00

L-03 NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 USIA-06 SAL-01 /156 W

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 7093

C O N F I D E N T I A L USUN 1745

FROM LOS DEL

RECOMMEND DEPARTMENT POUCH TO ALL EMBASSIES

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS COMMITTEE II DEBATE ON ARTICLE 73; HIGH SEAS.

SUMMARY: C-II SPENT HALF DAY 20 APRIL DEBATING ARTICLE 73 OF
SNT. 38 SPEAKERS (U.S., SOVS, MARITIMES, LAND-LOCKEDS) SOUGHT
CHANGE TO EXISTING TEXT TO MAKE ECONOMIC ZONE HIGH SEAS FOR ALL
PURPOSES EXCEPT THOSE SPECIFIED IN THE CONVENTION. EG. COASTAL
STATE RESOURCE RIGHTS. 41 STATES

ARUGED TO RETAIN EXISTING TEXT (CHINA, INDIA, AFRICANS, AND
VERY VOCALLY, COASTAL LATINS). CANADA, AUSTRALIA, NEW ZEALAND
SOUGHT WEAKER VERSION OF U.S. AMENDMENT. FOR COHERENCY THIS
CABLE IS ORGANIZED AS FOLLOWS: DEBATE (A) FOR AMENDMENT (B)
FOR RETENTION OF EXISTING TEXT (C) MIDDLE GROUND, AND (D)
COMMENT. DEBATE IS NOT REPORTED CHRONOLOGICALLY. REMAINDER
OF DAY'S DEBATE WILL BE REPORTED SEPTTEL. END SUMMARY.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USUN N 01745 261539Z

1. AGUILAR CHAIRED C-II MEETING 20 APRIL THAT OPENED WITH DEBATE ON ARTICLE 73 OF SNT: DEFINITION OF TERM "HIGH SEAS".

2. FOR AMENDMENTS:

SINGAPORE (KOH) OPENED WITH ARGUMENT THAT PRESENT ARTICLE 73 PRESENTED GREAT DIFFICULTIES. HE STATED THAT RULES AND NORMS OF INTERNATIONAL LAW ON HIGH SEAS SHOULD CONTINUE TO APPLY IN THE ECONOMIC ZONE (EZ) EXCEPT AS THEY INTERFERE WITH RESOURCES. IN THE EZ THE COASTAL STATE (CS) WILL HAVE ECONOMIC AND RELATED RIGHTS AS PROVIDED IN THE CONVENTION. U.S. (OXMAN) INTRODUCED AMENDMENT READING:
QUOTE DELETE THE WORDS IN THE EXCLUSIVE ECONOMIC ZONE. ADD THE FOLLOWING WORDS AT THE END OF THIS ARTICLE:

PROVIDED THAT THE PROVISIONS OF THIS PART (HIGH SEAS) SHALL AS APPLY TO THE ECONOMIC ZONE ONLY IN SO FAR AS THEY ARE NOT INCOMPATIBLE WITH THE PROVISIONS OF PART III. (ECONOMIC ZONE) UNQUOTE

OXMAN ARGUED THAT U.S. WAS MAKING INTENSIVE EFFORTS TO BE MODERATE AND SEEKING FORMULA WIDELY ACCEPTABLE BUT U.S. COULD NOT ACCEPT PRESENT TEXT. ARTICLE 73, HE ADDED, IS INCONSISTENT WITH CONCEPT OF EZ, AND WOULD PREJUDICE EXISTING TREATIES, HE ADDED THAT U.S. AMENDMENT WOULD HAVE NO EFFECT ON RIGHTS OF COASTAL STATES IN EZ. SOVS DISAGREED WITH EXISTING TEXT AND AGREED WITH SINGAPORE AND U.S. SOV SAID COASTAL STATES WERE BEING GRANTED BROAD SOVEREIGN RIGHTS FOR EXPLORATION AND EXPLOITATION (E&E) BUT EZ MUST NOT BE EXCLUDED FROM CONCEPT OF HIGH SEAS. IN SPACE BEYOND TERRITORIAL SEA (TS) ALL STATES SHOULD HAVE RIGHTS FOR LEGITIMATE USES IN ACCORDANCE WITH INTERNATIONAL LAW. TO SOVS EXISTING ARTICLE 73 WOULD DISRUPT PRINCIPLES OF NAVIGATION AND OVERFLIGHT AND UNDERMINE POSSIBILITY OF COMPROMISE. LAND-LOCKED (L/L) ARGUED THAT EXISTING ARTICLE PUTS THEM AT DISADVANTAGE AND EVEN FURTHER AWAY FROM HIGH SEAS. UK ARGUED ARTICLE 73 UPSET BALANCE ACHIEVED BETWEEN ARTICLE 45 (RIGHTS OF COASTAL STATES) AND ARTICLE 47 (RIGHTS OF OTHERS). IT WOULD CREATE A LEGAL VACUUM; THE EZ MUST BE HIGH SEAS
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USUN N 01745 261539Z

MINUS ALL RIGHTS OF COASTAL STATES EXERCISED IN ACCORDANCE WITH THE CONVENTION.

3. STATES SUPPORTING THESE VIEWS WERE:

SINGAPORE	BYELORUSSIA
U.S.	UKRAINE
FINLAND	NORWAY

GREECE	IRELAND
AUSTRIA	ETHIOPIA
LIBERIA	BULGARIA
TURKEY	KUWAIT
ITALY	GDR
FRG	CZECHOSLOVAKIA
ISRAEL	BELGIUM
FRANCE	MONGOLIA
USSR	UK
SWITZERLAND	REPUBLIC OF KOREA
DENMARK	AFGHANISTAN
SWEDEN	BOTSWANA
NETHERLANDS	PORTUGAL
HUNGARY	BOLIVIA
POLAND	ZAMBIA
IRAQ	

4. PERU LED DEBATE FOR RETENTION OF EXISTING LANGUAGE OF ARTICLE 73. ARIAS-SCHRIEBER AND OTHERS ARGUED THAT THE TEXT REFLECTS THE PREVAILING TENDENCY OF DEBATE IN LAST TWO CONFERENCE SESSIONS. IN HIGH SEAS STATES HAVE EQUAL SOVEREIGNTY AND U.S. PROPOSAL SOUGHT TO DESTROY CONCEPT OF ECONOMIC ZONE WHERE COASTAL STATES HAS CERTAIN SOVEREIGN RIGHTS. PERU CONSIDERS THE U.S. ARGUMENTS "UTTERLY FALLACIOUS", LACKING IN LEGAL BASIS, AND THE AMENDMENTS "DISRUPTIVE". KENYA ADDED AMENDMENTS WERE DESIGNED TO "KILL CONCEPT OF EZ" AND ASKED THAT MARITIME STATES EXPOSE THEIR LEGITIMATE INTERESTS IN THE EZ FOR DISCUSSION. CHINA ATTACKED SUPERPOWER HEGEMONIC PROPOSALS AND OPPOSED HIGH SEAS STATES FOR ECONOMIC ZONE IN PRINCIPLE.

5. OTHERS IN OPPOSITION:

TOGO	SOMALIA
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PAGE 04 USUN N 01745 261539Z

SPAIN	OMAN
TUNISIA	CONGO
CAMBODIA	GUATEMALA
MADAGASCAR	MEXICO
ROMANIA	PAKISTAN
ALBANIA	UGANDA
ECUADOR	YUGOSLAVIA
DEM REP. KOREA	DOM. REPUBLIC
SUDAN	INDONESIA
SRI LANKA	GHANA
NIGERIA	BRAZIL
INDIA	LIBYA
CAMEROON	EGYPT
URAGUAY	SENEGAL
CHILE	VENEZUELA

COLOMBIA PHILIPPINES
IVORY COAST IRAN
 ARGENTINA

6. AUSTRALIA OFFERED THE FOLLOWING AMENDMENT: DELETE QUOTE
IN THE ECONOMIC ZONE. UNQUOTE ADD AT END OF SENTENCE: QUOTE PROVIDED
THAT THE EXCLUSIVE ECONOMIC ZONE IS NOT HIGH SEAS WITH
RESPECT TO THE EXERCISE OF COASTAL STATES RIGHTS PROVIDED FOR IN
THIS CONVENTION UNQUOTE.

7. CANADA (LA POINTE) NOTED GREAT IMPORTANCE OF ARTICLE
73 AND EXPRESSED CONCERN THAT U.S. AMENDMENT ERODES CON-
CEPT OF ECONOMIC ZONE. HOWEVER, CANADA REALIZES PRESENT
TEXT COULD CAUSE DIFFICULTIES AND THEREFORE PROPOSES RE-
TENTION OF ARTICLE 73 AS PARA 1 BUT WITH NEW PARA 2: QTE
THE PROVISIONS OF THIS PART, AS WELL AS OTHER RELEVANT
RULES OF INTERNATIONAL LAW, SHALL, NOTWITHSTANDING PARA 1
ABOVE, APPLY TO THE ECONOMIC ZONE INsofar AS THEY ARE NOT
INCOMPATIBLE WITH THE PROVISIONS OF PART 3. (NEW ZEALAND
SUPPORTED CANADA).

8. COMMENT: US WAS ACTIVE IN MARSHALLING SUPPORT FOR
REVISION OF ART. 73, AND DEBATE WENT FAIRLY WELL. MEMBERS
OF BUREAU INVOLVED IN PREPARING REVISED TEXT HAVE INDICATED
THAT ART. 73 PROBABLY WILL BE RE-DRAFTED TO RESTORE BALANCE.
IF THIS HAPPENS, SUBSTANTIVE US OBJECTIVES
CONFIDENTIAL

CONFIDENTIAL

PAGE 05 USUN N 01745 261539Z

MAY WELL BE ACHIEVED. US DEL WILL CONTINUE PUBLICLY AND
PRIVATELY TO PRESS FOR MAXIMUM RETENTION OF HIGH SEAS
FREEDOMS IN 200-MILE ECONOMIC ZONE.
SCRANTON

NOTE BY OCT: NOT POUCHED ADDRESSEES.

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